

Attorney Docket No. P11303

REMARKS/ARGUMENTS**1.) Claim Amendments**

Claims 1 through 40 are pending in the application. They have not been amended, but a courtesy copy of the claims is provided above.

2.) Claim Rejections – 35 U.S.C. § 102(e)

The Examiner rejected claims 1-19, 21-28, 38 and 40-41 under 35 U.S.C. § 102(e) as being anticipated by Rasanen (US 2002/0045447).

Declaration of Prior Invention Under 37 CFR § 1.131

The Applicant contends that the subject matter of the instant application was invented prior to the effective date of Rasanen. The Applicant is enclosing Declarations of Prior Invention Under 37 CFR § 1.131 from both inventors. The Applicant contends that the showing of facts in the Declarations establishes that the inventors conceived of the invention prior to the effective date of Rasanen, and worked with due diligence from prior to said date to a subsequent filing of a patent application in a WTO member country. The instant application ~~claims priority to~~ a European Application No. 99101948.0, which was filed on January 31, 1999. Photocopies of records of conception and a draft application are appended to the Declarations.

The Applicant further notes that the rejection is not based upon a U.S. patent that claims the same patentable invention, and that the rejection is not based upon a statutory bar. Therefore, the Applicant respectfully requests the withdrawal of the rejection under 35 U.S.C. § 102(e) as being anticipated by Rasanen, and the allowance of claims 1-19, 21-28, 38 and 40-41.

3) Claim Rejections – 35 U.S.C. § 103 (a)

The Examiner rejected claims 29-34 under 35 U.S.C. § 103(a) as being unpatentable over Rasanen. The Applicant contends that the enclosed Declarations of Prior Invention Under 37 CFR § 1.131 are also effective at overcoming the rejection of claims 29-34 under 35 U.S.C. § 103(a) as being unpatentable over Rasanen.

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Therefore, the Applicant respectfully requests the withdrawal of the rejection under 35 U.S.C. § 103(a), and the allowance of claims 29-34.

The Examiner rejected claims 20, 35-37 and 39 under 35 U.S.C. § 103(a) as being unpatentable over Rasanen and further in view of Byrne (US 5,737,703). The Applicant contends that the Declarations of Prior Invention Under 37 CFR § 1.131 are also effective at overcoming the rejection of claims 20, 35-37 and 39 under 35 U.S.C. § 103(a) as being unpatentable over Rasanen in view of Byrne because the Applicant has sworn behind Rasanen, and Byrne alone does not disclose or suggest all the claim limitations of claims 20, 35-37 and 39. Therefore, the Applicants respectfully request the withdrawal of the rejection under 35 U.S.C. § 103(a), and the allowance of claims 20, 35-37 and 39.

CONCLUSION

In view of the foregoing remarks, the Applicant believes all of the claims currently pending in the Application to be in a condition for allowance. The Applicant, therefore, respectfully requests that the Examiner withdraw all rejections and issue a Notice of Allowance for all pending claims.

The Applicant requests a telephonic interview if the Examiner has any questions or requires any additional information that would further or expedite the prosecution of the Application.

Respectfully submitted,

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